

BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL
AT DEHRADUN

Present: Hon'ble Mr. Ram Singh

----- Vice Chairman(J)

Hon'ble Mr. D.K.Kotia

-----Vice Chairman (A)

CLAIM PETITION NO. 12/DB/2014

1. Vinod Kumar Nirala, S/o Sri Shankar Lal, Nirala
2. Gajpal, S/o Shri Dharam Lal,
3. Amit Lingwal, S/o Shri Raghuveer Singh Lingwal,
4. Mahendra Singh Rawat, S/o Shri Manohar Singh Rawat,
5. Vijendra Singh Rana, S/o Shri Vikram Singh Rara
6. Bhupendra S/o Shri Raisan Das,
7. Meera Rawat, W/o Shri Dharendra Singh Rawat
(Sl. NO. 1 to 5 and 7 above are working as Senior Assistant and Sl.No. 6 as Junior Assistant in the Office of the Regional Transport Officer, Pauri Garhwal)
8. Manoj Rawat, S/o Shri Rameshwar Singh Rawat,
9. Ajay S/o Shri Devendra Prasad
10. Manish Purohit, S/o Sheeshram Purohit
(Sl. NO. 8, 9 and 10 are working as Senior Assistant in the office of Assistant Regional Transport Officer, Kotdwar, District Pauri Garhwal)
11. Manoj Kumar, S/o Shri Shyam Lal
12. Pratap Mandrawal, S/o Shri Rukum Singh Mandrawal
(Sl. No. 11 and 12 working as Senior Assistant in the Office of Assistant Regional Transport Officer, Rudraprayag)
13. Pawan Bhatt, S/o Chandi Prasad Bhatt,
14. Anoop Lingwal, S/o Raghuveer Singh Lingwal
(Sl.No. 13 & 14 working as Senior Assistant in the office of Assistant Regional Transport Officer, Karnprayag)

.....Petitioners

VERSUS

1. State of Uttarakhand through its Secretary, Department of Transport, Subhash Road, Dehradun.
2. Additional Transport Commissioner of the office of Transport Commissioner, Kulhal Sahastradhara Road, Dehradun.

3. Shri Narendra Miya, Senior Assistant, Office of Regional Transport Officer, Dehradun.
4. Shri Shailendra Bisht, Senior Assistant, Office of Regional Transport Officer, Dehradun.
5. Shri Janveer Singh Rawat, Sr. Assistant of the Office of Assistant Regional Transport Officer, Rishikesh, District Dehradun.
6. Shri Vinod Kr. Senior Assistants of the office of Assistant Transport Officer, Uttarkashi,
7. Shri Kamal Pd. Gaur, Senior Assistants of the office of Assistant Transport Officer, Uttarkashi.
8. Shri Kasti Vallabh Joshi, Senior Assistant of the office of Regional Transport Officer, Haldwani, District Nainital.
9. Shri Lalit Mathpal, Sr. Assistant of the office of Assistant Regional Transport Officer, Kashipur, District Udham Singh Nagar.
10. Neetu Saxena, Sr. Assistant of the office of Assistant Regional Transport Officer, Rudrapur, District Udham Singh Nagar.
11. Shri Ramesh Chand Tewari, Sr. Assistant of the office of Assistant Transport Officer, Tanakpur, District Champawat.
12. Shri Santosh Kumar Bhatt, Junior Assistant (Deleted)
13. Shri Ashish Mohan Pandey, Junior Assistant
14. Km. Jyoti Badola, Junior Assistant
15. Shri Jagdish Chand Bhatt, Junior Assistant
16. Shri Navneet Joshi, Junior Assistant
17. Smt. Puja Khulve, Junior Assistant
18. Shri Brij Mohan, Junior Assistant
19. Shri Harinder Singh Bafila, Junior Assistant
20. Shri Praveen Kandari, Junior Assistant
21. Shri Amit Kumar Gupta, Junior Assistant
22. Shri Khem Singh Negi, Junior Assistant
23. Shri Gokul Singh, Junior Assistant
24. Shri Chandra Shekhar Pandey, Junior Assistant.
25. Shri Tygendra Singh Rawat, Junior Assistant
26. Smt. Sarita Bahuguna, Junior Assistant
27. Shri Naveen Bhatt, Junior Assistant
28. Shri Mohd. Ashif, Junior Assistant
29. Shri Javed Akhtar, Junior Assistant

30. Shri Anil Kumar, Junior Assistant
31. Shri Pyar Das Verma, Junior Assistant
32. Shri Amit Kumar, Kanojia, Junior Assistant
33. Shri Shakhawat Hussain, Junior Assistant (Deleted)
34. Shri Ram Singh Pingal, Junior Assistant
35. Shri Mahmood, Junior Assistant
36. Shri Vinay Rana, Junior Assistant
37. Shri Lalit Mohan Arya, Junior Assistant
38. Shri Surajpal, Junior Assistant
39. Shri Anil Kumar Bharti, Junior Assistant
40. Shri Harish Chandra, Junior Assistant
41. Shri Amit Raj, Junior Assistant
42. Shri Virendra Singh, Junior Assistant (Deleted)
43. Shri Prakash Nath, Junior Assistant
44. Shri Narendra Singh Mahipal, Junior Assistant
45. Shri Vineet Kumar, Junior Assistant
46. Shri Aslam Ali, Junior Assistant
47. Shri Bhupendra Singh Rawat, Junior Assistant
48. Shri Naveen Kumar, Junior Assistant
49. Shri Chandan Prakash, Junior Assistant
50. Shri Manoj Kumar, Junior Assistant
51. Shri Dhanveer Danosi, Junior Assistant
52. Shri Charu Chandra, Junior Assistant

.....Respondents

Present: Sri J.P.Kansal, Ld. Counsel
for the petitioners.

Sri Umesh Dhaundiyal, Ld. A.P.O.
for the respondent Nos. 1 & 2.

Sri Shashank Pandey, Ld. Counsel
for the respondents No. 3,4,18,25 & 26

JUDGMENT

DATED: NOVEMBER 18 , 2016

(HON'BLE MR. D.K. KOTIA, VICE CHAIRMAN (ADMIN.))

1. The petitioners have filed the claim petition for seeking following relief:-

“(a) The respondent Nos. 1 and 2 be kindly ordered and directed to place the petitioners above all the Junior Assistants, who were selected/ joined the appointment, after selection/ appointment of the petitioners, in the office of Dehradun, Haldwani and Almora Regions and to modify the impugned seniority list accordingly;

(b) any other relief in addition to or in modification of above, as the Hon’ble Tribunal deem fit and proper, be kindly granted to the petitioner against the respondents; and

(c) Rs.10,000/- as costs of this claim petition be kindly awarded to the petitioner against the respondents.”

2. In the present claim petition, the petitioners and the private respondents both were appointed (through Direct Recruitment) on the post of Junior Assistant (a Group ‘C’ post) in the Regional Transport Offices of the Department of Transport, Government of Uttarakhand at Pauri Garhwal, Dehradun, Haldwani and Almora. The grievance of the petitioners(who were appointed in the Regional Transport Office of Pauri Garhwal) is that in the combined seniority list of Junior Assistants issued for whole of the State on 21.10.2013 (Annexure: A 1), they were placed below the private respondents who were appointed in Dehradun, Haldweani and Almora regions subsequent to the appointment of the petitioners in Pauri Garhwal region.
3. In order to understand the dispute of the seniority between petitioners and private respondents, it would be appropriate to understand the scheme of selection and the process of their appointment on the post of Junior Assistant.
4. The Government of Uttarakhand decided in 2005 that in order to fill up vacancies of the Junior Assistant in various departments of the State Government (including the Transport Department), a combined written examination should be held on one date in all the districts of the State. A Government Order was issued on 24.12.2005 in this regard which is quoted below:-

“संख्या:- 3931/XXXii/2005

प्रेषक ,

एन0एस0 नपलच्याल,
प्रमुख सचिव,
उत्तरांचल शासन।

सेवा में,
समस्त जिलाधिकारी
उत्तरांचल।

कार्मिक विभाग: देहरादून : 24 दिसम्बर, 2005

विषय— विभिन्न विभागों के अन्तर्गत कनिष्ठ सहायक के पदों पर सीधी भर्ती द्वारा संयुक्त परीक्षा आयोजित कराये जाने के सम्बन्ध में।

महोदय,

उपर्युक्त विषय पर मुझे यह कहने का निदेश हुआ है कि विभिन्न कार्यालयों/विभागों के अन्तर्गत कनिष्ठ सहायक के रिक्त पदों पर एक ही तिथि को लिखित परीक्षा गोबिन्द बल्लभ पन्त कृषि एवं प्रौद्योगिक विश्वविद्यालय, पन्तनगर से कराये जाने का शासन द्वारा निर्णय लिया गया है। इस परीक्षा के आयोजन हेतु प्रत्येक जनपद के जिलाधिकारी को नोडल अधिकारी नामित किया जाता है। जिलाधिकारियों द्वारा जनपद में प्रत्येक विभाग के अन्तर्गत रिक्त पदों की सूचना, जिसमें सामान्य श्रेणी के रिक्त पदों, अनुसूचित जाति के रिक्त पदों, अनुसूचित जनजाति के रिक्त पदों तथा अन्य पिछड़ा वर्ग के रिक्त पदों की पृथक-पृथक सूचना सम्बन्धित नियुक्ति प्राधिकारियों से प्राप्त करके विभागवार एवं कार्यालय वार रिक्तियों का विवरण जिसमें आरक्षित रिक्तियों को पृथक-पृथक करते हुए तैयार किया जायेगा। इस प्रकार तैयार की गयी सूचना की एक प्रति अपने कार्यालय में रखते हुए उसकी एक प्रति उत्तरांचल शासन के कार्मिक विभाग को दिनांक 10.1.2006 तक उपलब्ध करायी जयेगी। रिक्तियों का विवरण विभागवार अलग-अलग बनाया जायेगा। उदाहरण के लिए समाज कल्याण विभाग, राजस्व विभाग, पंचायत राज विभाग की रिक्तियों का विवरण आरक्षित श्रेणी की रिक्तियों के साथ पृथक-पृथक तैयार किया जायेगा।

2— शासन द्वारा विज्ञापन का प्रारूप प्रेषित किये जाने के पश्चात जिलाधिकारियों द्वारा उपरोक्तानुसार विभागवार पृथक-पृथक तैयार किये गये रिक्तियों के विवरण के अनुसार विज्ञापन एक साथ सभी विभागों के लिए प्रकाशित किये जायेंगे। विज्ञापन प्रकाशित होने के पश्चात लिखित परीक्षा का आयोजन गोबिन्द बल्लभ पन्त कृषि एवं प्रौद्योगिक विश्वविद्यालय, पन्तनगर द्वारा किया जायेगा। विज्ञापित पदों पर परीक्षा एक ही तिथि को होगी। परीक्षा केन्द्रों का चयन जिलाधिकारियों द्वारा आवेदन पत्रों की संख्या एवं स्थान की उपलब्धता तथा मानव संसाधन की उपलब्धता के आधार पर किया जायेगा। लिखित परीक्षा हेतु प्रवेश पत्र गोबिन्द बल्लभ पन्त कृषि एवं

प्रौद्योगिक विश्वविद्यालय द्वारा प्रेषित किये जायेंगे तथा अभ्यर्थियों के आवेदन पत्र तथा अन्य प्रपत्र जिलाधिकारियों को विश्वविद्यालय द्वारा भेजे जायेंगे। जिलाधिकारियों द्वारा ऐसे आवेदन पत्रों को विभागवार सम्बन्धित नियुक्ति प्राधिकारियों को उपलब्ध कराया जायेगा। लिखित परीक्षा का परिणाम घोषित होने के पश्चात विश्वविद्यालय द्वारा लिखित परीक्षा का परिणाम उपलब्ध कराया जायेगा और लिखित परीक्षा का परिणाम प्राप्त होने के पश्चात सम्बन्धित नियुक्ति प्राधिकारियों द्वारा अन्य कार्यवाही उत्तरांचल (उत्तरांचल लोक सेवा आयोग के क्षेत्र के बाहर) समूह-‘ग’ के पदों पर सीधी भर्ती की प्रक्रिया नियमावली –2003 के अनुसार करते हुए अन्तिम परिणाम विभागवार घोषित किया जायेगा।

आपसे अनुरोध है कि कृपया उपरोक्तानुसार कार्यवाही करते हुए प्रत्येक विभाग में रिक्त पदों का विवरण आरक्षित श्रेणी के रिक्त पदों को पृथक –पृथक इंगित करते हुए दिनांक 10.1.2006 तक शासन को उपलब्ध कराने का कष्ट करें।

भवदीय,

(नृप सिंह नपलच्याल)
प्रमुख सचिव”

5. As per the above G.O., the salient features of the process of the direct recruitment of Junior Assistants was as follows:-
- (i) There will be a combined written examination.
 - (ii) The written examination would be conducted to fill up vacancies of the Junior Assistant of all the departments of the State.
 - (iii) The written examination would be conducted by the Govind Ballabh Pant Agricultural and Technological University, Pantnagar (hereinafter referred as the University).
 - (iv) The written examination for whole of the State will be conducted on one date (the date of 17.12.2006 was fixed for the written examination by the University throughout the State).
 - (v) The District Magistrates of all the Districts of the State will be the incharge to organize the written examination and the recruitment in their districts.
 - (vi) The District Magistrates will publish the advertisement of vacancies of various departments and invite the applications.
 - (vii) After the declaration of result of the written examination by the University, it will be sent to the concerned departments and the appointment authorities of these departments will take further

action for selection and appointment in respect of vacancies of their departments in accordance with the Uttarakhand Procedure for Direct Recruitment for Group "C" Posts (outside the purview of the Uttarakhand Public Service Commission) Rules, 2003 (hereinafter referred as the Rules of 2003.)

6. In continuation of G.O. dated 24.12.2005, another G.O. dated 21.06.2006 was also issued. The same is also being reproduced as under:-

“संख्या :-1853/XXXii/2006

प्रेषक,

नृप सिंह नपलच्याल,
प्रमुख सचिव,

सेवा में,

समस्त जिलाधिकारी,
उत्तरांचल।

विषय:- विभिन्न विभागों के अन्तर्गत कनिष्ठ सहायकों के रिक्त पदों पर सीधी भर्ती द्वारा संयुक्त परीक्षा आयोजित किये के सम्बन्ध में ।

कार्मिक अनुभाग-2

देहरादून दिनांक 21 जून, 2006

महोदय,

उपर्युक्त विषय पर शासनादेश संख्या -3931/XXXii/2005 दिनांक: 24 दिसम्बर, 2005 के संदर्भ में मुझे यह कहने का निदेश हुआ है कि उक्त शासनादेश में की गई अपेक्षानुसार आपके जनपद में विभिन्न विभागों के अन्दर कनिष्ठ सहायक के रिक्त पदों का आरक्षण के अनुसार विज्ञापन हेतु आमंत्रित किये जाने वाले प्रपत्र की एक प्रति संलग्न की जा रही है आपसे अनुरोध है कि कृपया इस सम्बन्ध में तत्काल निम्नानुसार कार्यवाही करने का कष्ट करें:-

1. आपके जनपद से सम्बन्धित रिक्त पदों के सम्बन्ध में संलग्न किये जा रहे विज्ञापन को व्यापक प्रचार प्रसार वाले दैनिक समाचार पत्रों के माध्यम से प्रकाशित करें। विज्ञापन प्रत्येक जिलाधिकारी अपने जनपद के पदों के सम्बन्ध में प्रकाशित करेंगे।

2. जिलाधिकारी कनिष्ठ सहायकों की परीक्षा से सम्बन्धित कार्य हेतु अपने जनपद के किसी वरिष्ठ अधिकारी को नोडल अधिकारी नामित करेंगे जो कि उक्त कार्य हेतु जिलाधिकारी के प्रति उत्तरदायी होंगे, एवं जिलाधिकारी ऐसे नामित अधिकारी का नाम एवं पता, दूरभाष संख्या, मोबाइल नम्बर श्री आर0पी0एस0 कुशवाहा, संयोजक (परीक्षा एवं चयन) जी0बी0पन्त कृषि एवं प्रौद्योगिक विश्वविद्यालय पन्तनगर तथा कार्मिक विभाग को प्रेषित करेंगे।

3. नोडल अधिकारी लिखित परीक्षा के आयोजन हेतु संयोजक (परीक्षा एवं चयन) के सम्पर्क में रहकर आवेदन पत्र एवं ओ0एम0आर0 तथा अन्य विवरण प्राप्त करेंगे और परीक्षा आयोजन के पश्चात उसे पन्तनगर विश्वविद्यालय को प्रेषित करेंगे। इस हेतु समुचित सुरक्षा व्यवस्था भी की जायेगी।

4. लिखित परीक्षा का परिणाम पन्तनगर विश्वविद्यालय द्वारा घोषित किये जाने के पश्चात जिलाधिकारी द्वारा लिखित परीक्षा में उत्तीर्ण अभ्यर्थियों के साक्षात्कार तथा टंकण परीक्षा जहां आवश्यक हो सम्बन्धित नियुक्ति प्राधिकारी के माध्यम से (उत्तरांचल लोक सेवा आयोग के क्षेत्र के बाहर) समूह-ग के पदों पर सीधी भर्ती नियमावली 2003 के अनुसार करते हुए अन्तिम परीक्षाफल प्रत्येक विभाग के लिए विज्ञापित किये गये रिक्त पदों के सापेक्ष अभ्यर्थियों के श्रेष्ठता क्रम के अनुसार घोषित करते हुए नियुक्ति की कार्यवाही सम्पादित कराएंगे।

5. इच्छुक अभ्यर्थी आवेदन पत्र जिलाधिकारी कार्यालय से दिनांक 25.7.2006 के बाद निर्धारित शुल्क जमा करके प्राप्त करेंगे तथा आवेदन पत्र दिनांक 31.8.2006 तक डाक द्वारा अथवा व्यक्तिगत रूप से संयोजक (परीक्षा एवं चयन) गोविन्द बल्लभ पन्त कृषि एवं प्रौद्योगिक विश्वविद्यालय पन्तनगर के कार्यालय में जमा किये जायेंगे।

6. संलग्न विज्ञापन जिलाधिकारी द्वारा 30 जून, 2006 तक प्रकाशित किये जायेंगे।

2— अतः आपसे अनुरोध है कि कृपया उपरोक्त निर्देशों के अनुक्रम में तत्काल कार्यवाही करते हुए कृत कार्यवाही से संयोजक (परीक्षा एवं चयन) जी0बी0पन्त कृषि एवं प्रौद्योगिक विश्वविद्यालय पन्तनगर एवं शासन को अवगत कराने का कष्ट करें।

संलग्न :यथोक्त।

भवदीय,

(नृप सिंह नपलच्याल)
प्रमुख सचिव”

7. The paragraph 4 of the above G.O. is relevant which provides that after the declaration of the result of the written examination by the University, the District Collector will get completed other requirement of the selection like type test etc. under the Rules of 2003 by the Appointment Authorities of the concerned Departments who will then prepare the list in order of merit and issue the appointment order according to the merit list.
8. The Transport Department of the State Government provided the region-wise list of vacancies of Junior Assistant for the combined written examination to the Department of Personnel of the Government. The requisition letter of the Transport Department is reproduced below:-

“कार्यालय परिवहन आयुक्त, उत्तरांचल
228, मोहितनगर, देहरादून।

संख्या 09/सा0प्र0 / दो-89/2006 दिनांक 10 जनवरी, 2006

सेवा में,

प्रमुख सचिव,
कार्मिक विभाग,
उत्तरांचल शासन।

विषय:- विभिन्न विभागों के अन्तर्गत कनिष्ठ सहायकों के पदों पर सीधी भर्ती द्वारा संयुक्त परीक्षा आयोजित कराये जाने के सम्बन्ध में।

महोदय,

कृपया उपरोक्त विषयक शासन के पत्र संख्या 3931/XXXii/2005 दिनांक 24.12.2005 का अवलोकन करने की कृपा करें, जो विभिन्न / कार्यालयों / विभागों के अन्तर्गत कनिष्ठ सहायक के रिक्त पदों पर एक ही तिथि को लिखित परीक्षा आयोजित कराये जाने हेतु विभाग के अन्तर्गत श्रेणीवार रिक्त पदों की सूचना उपलब्ध कराये जाने के सम्बन्ध में है।

इस सम्बन्ध में परिवहन विभाग के मुख्यालय एवं सम्भागों में कनिष्ठ सहायकों के रिक्त पदों का विवरण श्रेणीवार निम्न प्रकार प्रेषित किया जा रहा है:-

क्रम सं०	सम्भाग का नाम	रिक्त पदों की संख्या	रिक्त पदों का श्रेणीवार संख्या				योग
			सामान्य	अनु० जाति	अनु० जनजाति	अन्य पिछड़ा वर्ग	
1	2	3	4	5	6	7	8
1	परिवहन आयुक्त कार्यालय, देहरादून	08	05	02	—	01	08
2	देहरादून सम्भाग (देहरादून, हरिद्वार, टिहरी, उत्तरकाशी)	32	16	09	01	06	32
3	पौड़ी सम्भाग (पौड़ी, रुद्रप्रयाग, चमोली)	19	12	04	—	03	19
4	हल्द्वानी सम्भाग (नैनीताल, उधमसिंह नगर, चम्पावत)	27	12	09	01	05	27
5	अल्मोड़ा सम्भाग (अल्मोड़ा, पिथौरागढ़, बागेश्वर)	09	03	04	—	02	09
	योग	95	48	28	02	17	95

भवदीय,

(एस० रामास्वामी)
परिवहन आयुक्त।”

9. Thereafter, the applications were invited by the District Magistrates by giving an advertisement (the format of which was provided by the

State Government) in respect of vacancies in their Districts in various Departments. The advertisement provided that the written test will be conducted on one date and an applicant will give preference of only three departments for the selection. According to the scheme of recruitment, the 17.12.2006 was fixed the single date of the written examination throughout the State. Thus, a candidate could appear only in one district for the written examination.

10. The selection/ appointment of Junior Assistants in various regions in the Department of Transport made by the Appointing Authority (Regional Transport Officers) under the guidance of the District Collector in accordance with the scheme/ rules is without any controversy/ dispute. There is no grievance of petitioners/ private respondents in regard to the process of selection/ appointment.
11. The appointment letters of Junior Assistants according to the merit list were issued by the Regional Transport Officers (the Appointing Authorities) of Pauri Garhwal, Dehradun, Haldwani and Almora separately on different dates as and when the process of selection completed. While the appointment orders of Pauri Garhwal region were issued in July, 2008, Dehradun, Haldwani and Almora regions lagged behind in completing the process of selection and the appointment orders were issued in December, 2008. Thus, the appointment orders of Dehradun, Haldwani and Almokra regions were issued subsequent to the appointment orders of Pauri Garhwal region.
12. The Uttarakhand Transport Department Ministerial Service Rules, 2004 (hereinafter referred as Rules of 2004) provides that the seniority of all the Junior Assistants will be maintained for the State as a whole. The relevant Rule 20 of the said Rules is quoted below:-

“20 (1) सम्पूर्ण राज्य में मुख्यालय स्तर पर ज्येष्ठता सूची रखी जायेगी ।

(2) सेवा में किसी भी श्रेणी के पद पर ज्येष्ठता का निर्धारण उत्तरांचल सरकारी सेवा ज्येष्ठता नियमावली, 2002 अथवा तत्समय प्रवृत्त नियमावली के अन्तर्गत किया जायेगा।”
13. The Rule 20 of the Rules of 2004 above also provides that the seniority of the employees of any category of the service in the Transport

Department will be determined in accordance with the Uttarakhand Government Servants Seniority Rules, 2002 (hereinafter referred as Rules of 2002). The petitioners and private respondents both have relied on Rule 5 of the Rules of 2002 which is reproduced below:-

“5. Where according to the service rules appointments are to be made only by the direct recruitment the seniority inter se of the persons appointed on the result of any one selection, shall be the same as it is shown in the merit list prepared by the commission or the committee, as the case may be:

Provided that a candidate recruited directly may lose his seniority, if he fails to join without valid reasons when vacancy is offered to him, the decision of the appointing authority as to the validity of reasons, shall be final.

Provided further that persons appointed on the result of a subsequent selection shall be junior to the persons appointed on the result of a previous selection”.

14. The petitioner has contended in his claim petition that the petitioners were appointed before the appointments of the private respondents therefore, according to second proviso to Rule 5 of the Rules of 2002, the petitioners are senior to the private respondents because the private respondents were appointed on the result of a subsequent selection and the petitioners were appointed on the result of a previous selection. In other words, the petitioners have pleaded that since they were selected/ appointed in July, 2008 in Pauri Garhwal region and the private respondents were selected/ appointed in December, 2008 in other regions subsequent to the selection/ appointment of the petitioners, the petitioners are entitled to have their seniority fixed above all the private respondents who were selected/ appointed at a later date after the petitioners.
15. State respondents (Nos. 1 & 2) as well as private respondents (No. 3,4,18, 25 and 36) have opposed the claim petition. In their written statements they have contended that the petitioners as well as private respondents have been appointed in various regions on the result of one selection and, therefore, according to the first para of Rule 5 of the

Rules of 2002, the inter se seniority of the petitioners and private respondents will be determined on the basis of the “merit list” of the selection. Their contention is that as per the merit list, total marks (which have been shown in the seniority list also) awarded to the private respondents are higher than the marks awarded to the petitioners and the merit list pertains to one selection therefore, according to the first para of Rule 5 of the Rules of 2002, the private respondents have been rightly shown above the petitioners in the seniority list dated 21.10.2013 (Annexure: A 1)

16. Private respondents except No. 3,4,18, 25 & 36 have not filed any written statement.
17. The petitioner has also filed separate rejoinder affidavits against the written statements of the respondents and the same averments have been made and elaborated in these which were stated in the claim petition.
18. We have heard learned counsel for the petitioners, learned A.P.O. and learned Counsel for the private respondents and also perused the record.
19. Ld. Counsel for the petitioners has argued that though there was a common written examination on a single date for direct recruitment on the post of Junior Assistant yet district wise selection committees were constituted after the written examination for selection of the candidates against the vacancies in various regions. District wise selection committees met on different dates and these committees also conducted the typing test of the candidates and after that only, the selection committees made selection and thereafter appointment orders were issued. Ld. Counsel for the petitioners has further contended that marks obtained in the written examination was not the only criterion to prepare the merit list. Apart from marks of the written test, the marks of typing test, marks secured in Intermediate examination, weightage of participation in sports activities etc. were also included in preparing the merit list. The appointment orders were issued on different dates and the appointment orders of the private

respondents were issued subsequent to the appointment orders of the petitioners. The petitioners were selected and appointed much before the private respondents, and therefore, according to second proviso of Rule 5 of the Rules of 2002, the petitioners should be placed in the seniority list above the private respondents who were selected/appointed on the result of the subsequent selection.

20. Ld. A.P.O. and Ld. Counsel for the private respondents have refuted the arguments of the Ld. Counsel for the petitioners and have stated in their counter arguments that there was only one selection because only a single written test was held on 17.12.2006 in which both the petitioners as well as private respondents appeared. After this common written examination, the selection committee met to complete the process of selection of Junior Assistants region-wise. The selection/appointment in various regions was made according to the merit list of total marks secured by candidates. It has further been argued by Ld. Counsels for the respondents that though the appointment orders of selected candidates have been issued on different dates for different regions yet the fact remains that all the candidates had appeared in the same written test on the same date and therefore, there was only one selection of Junior Assistants by the method of direct recruitment for vacancies in various regions by which both the petitioners as well as private respondents have entered into the service. Ld. Counsels for the respondents have contended that according to the first para of Rule 5 of the Rules of 2002 when appointments have been made by the direct recruitment, the seniority inter se of the candidates appointed on the result of any one selection shall be the same as it is shown in the merit list prepared by the selection committee. Therefore, Ld. Counsels of the respondents have argued that the seniority list of Junior Assistants dated 21.10.2013(Annexure: A 1) which has been prepared on the basis of the marks obtained by the candidates, has been rightly made according to the merit list.
21. After hearing both the parties, we find that the question which is to be decided is whether there is "one selection" or different selections and

whether appointment orders issued at different points of time can be termed as previous selection/ subsequent selection. It is not in dispute that a single advertisement was published for all the districts of the State to fill up vacancies of various departments. All the petitioners as well as private respondents applied in response to this single advertisement only. A common written test was also held on a single date (17.12.2006) and all the petitioners as well as private respondents appeared in this written examination. Since all the candidates applied in respect of a single advertisement and all the candidates appeared on the same date in the written examination, the selection is through one examination only and therefore, we are of the opinion that there is only one selection for direct recruitment of Junior Assistants in various regions in the Department of Transport. After the common written examination, the district wise selection committees completed the selection process and prepared the region wise merit list and on the basis of the merit list, the candidates have been appointed in the regional offices of the department. The selection committees at district level met at different points of time and completed the process of selection on different dates and therefore, after completion of the process of the selection, appointment orders in different regions were issued on different dates. While the appointment orders in respect of Pauri Garhwal Region were issued in July, 2008, the appointment orders in other regions were issued later in December, 2008. Merely by issuance of appointment orders on different dates, it cannot be said that there were previous/ subsequent selections when all the candidates have been appointed on the basis of a single advertisement and a single written examination on the same date. Under these circumstances, we reach the conclusion that the direct recruitment of Junior Assistants is on the result of one selection and their seniority list for whole of the State has been rightly prepared on the basis of the merit list. Therefore, first Para of Rule 5 of the Rules of 2002, which provides that when appointments are made by the direct recruitment, the seniority inter se of the persons appointed on the result of one

selection shall be the same it is shown in the merit list prepared by the selection committee, would be applicable in the present case. As there is only one selection, the second proviso to Rule 5 of the Rules of 2002 which provides that persons appointed on the result of a subsequent selection shall be junior to the persons appointed on the result of a previous selection is not applicable in the present case.

22. For the reasons stated above, we do not find any force in the claim petition, the same is devoid of merit and is liable to be dismissed.

ORDER

The claim petition is hereby dismissed. No order as to costs.

(RAM SINGH)
VICE CHAIRMAN (J)

(D.K.KOTIA)
VICE CHAIRMAN (A)

DATE: NOVEMBER 18, 2016
DEHRADUN

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